(67)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

WRIT PETITION NO. 2361 OF 2001

Petitioner : Ravindra Sahu S/o Dayaram Sahu, aged about 34 years, Daily Wager, Municipal Council, Dhamati, Tahsil & District Dhamtari (Chhattisgarh)

Versus

Respondents :1. State of Chhattisgarh Through the Secretary, Department of Revenue D.K.S. Mantrayala, Raipur (Chhattisgarh).
2. The Collector District Dhamatri (Chhattisgarh).
3. Miss Omna Nair D/o Not Known, through Collector, Dhamtari.
4. Smt. Jaishree Sardul W/o Not Known, through Collector, Dhamtari.
5. Gopal Yadav S/o Not Known, through Collector, Dhamtari.
6. Mirza Ayazs S/o Not Known, through Collector, Dhamtari.

Present: Shri Abhishekh Sinha, counsel for the petitioner.
Shri Sandeep Dubey, Deputy Govt. Advocate for the respondents No. 1 & 2.
Shri Aneesh Pandey, counsel for the respondent no. 3.
Shri Sanjay Patel, counsel for the respondents No. 4, 5 and 6.

ORAL ORDER

(13th January, 2006)

1. Learned counsel for the petitioner submits that the petitioner was appointed on daily wages as steno-typist 20.4.1990 by the Municipal Council, Dhamtari to work in its establishment.

2. Vide Circular dated 20.8.1998 (Annexure P-9), several posts were created for the purpose of appointments in newly created 16 districts namely Dhamtari, Jashpur, Korba, Janjgir-

Champa, Korea, Katni, Neemach, Kanker, Umaria, Harda, Mahasamund, Dantewada, Sheopur Kala, Badwani, Kawardha and Dindori in undivided State of Madhya Pradesh. The said circular provides that the appointments of Class-III and Class-IV employees in the newly created districts would be made from the employees who were working as daily wages employees and the surplus employees of the Public Sector Undertakings. It is further provided that the appointments will be made on the posts, after limited examination conducted for the purpose of suitability of the employees according to the posts.

3. Shri Sandeep Dubey, learned Deputy Govt. Advocate appearing for the Respondents No. 1 and 2 have produced select list pursuant to the examination held on 7/8.9.1998. Name of the petitioner is shown under column of steno-typist at Serial No.1. The petitioner was rejected on the ground that the petitioner was not appointed on daily wages basis before 31.12.1988 and the petitioner was not surplus employee of the Public Sector Undertaking. The case of the petitioner was considered, but it was rejected on the ground, which was not the condition of the appointment of Class-III and Class IV employees. Clause-3 of the State Government Circular dated 28.8.1998 reads as under:-

> "यह स्वीकृति इस शर्त के साथ प्रदान की जाती है कि तृतीय श्रेणी एवं चतुर्थ श्रेणी के स्वीकृत पदों पर भर्ती केवल राज्य के विभिन्न विभागों में कार्यरत दैनिक वेतन भोगी कर्मचारियों की सीमित परीक्षा आयोजित कर एवं

शासन तथा मध्यप्रदेश शासन के सार्वजनिक उपक्रमों के अतिशेष कर्मचारियों से की जावेगी"।

4. After hearing learned counsel for the parties and having perused the records, I am of the view that there is apparent error in rejecting the petitioner for appointment on the post of steno-typist. The circular did not contemplate that only those daily wages employee be considered for appointments, who were appointed prior to 31.12.1988. The authorities, who were part of the selection process, had wrongly rejected the case of the petitioner on the ground that he was not appointed on daily wages prior to 31.12.1988.

5. For the reasons stated above, the petition is allowed and the respondents are directed to consider the case of the petitioner for appointment on the post of Steno-Typist subject to suitability. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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